



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

OPTIONCARE

Respondent Name

OLD REPUBLIC INSURANCE CO

MFDR Tracking Number

M4-10-2270-01

Carrier's Austin Representative

Box Number 44

MFDR Date Received

DECEMBER 22, 2009

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "REQUIRE CORRECT REIMBURSEMENT."

Amount in Dispute: \$1,348.82

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The respondent did not submit a response to this request for medical fee dispute resolution.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 1, 2009	HCPCS Codes A4221 and J0696	\$546.55	\$29.71
August 7, 2009	HCPCS Codes A4221 (X33) and J0696	\$136.51	\$136.51
October 8, 2009	HCPCS Codes J3370 (40), A4221 and A4223 (7)	\$336.35	\$0.00
October 15, 2009	HCPCS Codes J1956 (7), A4223(7) and A4221(7)	\$234.70	\$0.00
October 22, 2009	See Claim Form	\$94.71	\$0.00
TOTAL		\$1,348.82	\$166.22

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. Former 28 Texas Administrative Code §133.307, effective May 25, 2008, 33 *Texas Register* 3954, applicable to requests filed on or after May 25, 2008 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.4, effective July 27, 2008, requires the insurance carrier to notify providers of contractual agreements for informal and voluntary networks.

3. 28 Texas Administrative Code §134.203 effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
4. The services in dispute were reduced/denied by the respondent with the following reason:
 - Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement.

Issues

1. Does the documentation support notification requirements in accordance with 28 Texas Administrative Code §133.4?
2. Was the dispute filed in the form and manner required by 28 Texas Administrative Code §133.307?
3. Is the requestor entitled to additional reimbursement for date of service August 1, 2009?
4. Is the requestor entitled to additional reimbursement for date of service August 7, 2009?
5. Is the requestor entitled to additional reimbursement for date of service October 8, 2009?
6. Is the requestor entitled to additional reimbursement for date of service October 15, 2009?
7. Is the requestor entitled to additional reimbursement for date of service October , 2009?

Findings

1. 28 Texas Administrative Code §133.4(g) states “Noncompliance. The insurance carrier is not entitled to pay a health care provider at a contracted fee negotiated by an informal network or voluntary network if:
(1) the notice to the health care provider does not meet the requirements of Labor Code §413.011 and this section; or
(2) there are no required contracts in accordance with Labor Code §413.011(d-1) and §413.0115.”

On February 23, 2011, the Division requested a copy of the written notification to the health care provider pursuant to 28 Texas Administrative Code §133.4. No documentation was provided to sufficiently support that the respondent notified the requestor of the contracted fee negotiation in accordance with 28 Texas Administrative Code §133.4(g).

28 Texas Administrative Code §133.4(h) states “Application of Division Fee Guideline. If the insurance carrier is not entitled to pay a health care provider at a contracted rate as outlined in subsection (g) of this section and as provided in Labor Code §413.011(d-1), the Division fee guidelines will apply pursuant to §134.1(e)(1) of this title (relating to Medical Reimbursement), or, in the absence of an applicable Division fee guideline, reimbursement will be based on fair and reasonable reimbursement pursuant to §134.1(e)(3) of this title.”

The Division concludes that the respondent's is not entitled to pay the requestor at a contracted fee reduction; therefore, the disputed services will be reviewed per applicable Division rules and guidelines.

2. Former 28 Texas Administrative Code §133.307(c)(2)(B), requires that the request shall include “a copy of each explanation of benefits (EOB) . . . relevant to the fee dispute or, if no EOB was received, convincing documentation providing evidence of carrier receipt of the request for an EOB.” Review of the submitted documentation finds that the request does not include any EOBs for dates of service October 8, 2009, October 15, 2009 and October 22, 2009. Nor has the requestor provided evidence of carrier receipt of the request for an EOB. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(B).

Former 28 Texas Administrative Code §133.307(c)(2)(C), requires that the request shall include “the form DWC-60 table listing the specific disputed health care and charges in the form and manner prescribed by the Division.” Review of the submitted documentation finds that the requestor has not completed the form DWC-60 table listing the specific disputed health care and charges in the form and manner prescribed by the Division. The Division finds that for date of service October 22, 2009, the requestor noted “SEE CLAIM FORM” under the heading CPT Code(s). The requestor has therefore failed to complete the required sections of the request in the form and manner prescribed under §133.307(c)(2)(C).

Former 28 Texas Administrative Code §133.307(c)(2)(E), requires that the request shall include “a copy of all applicable medical records specific to the dates of service in dispute.” Review of the submitted documentation finds that the requestor has not provided copies of all medical records specific to the dates of service in dispute, or other medical records sufficient to support the services in dispute. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(E).

The Division concludes that the requestor failed to submit the request for medical fee dispute resolution in the form and manner required by former 28 Texas Administrative Code §133.307.

3. On August 1, 2009, the requestor billed for HCPCS codes A4221 and J0696.

- HCPCS code A4221 is defined as "Supplies for maintenance of drug infusion catheter, per week (list drug separately)."
- HCPCS code J0696 is defined as "Injection, ceftriaxone sodium, per 250 mg."
- The respondent paid \$77.14 for HCPCS code J0696 based upon "Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement."

Division Findings:

- The Division concludes that the respondent's is not entitled to pay the requestor at a contracted fee reduction; therefore, the disputed services will be reviewed per applicable Division rules and guidelines.
- Per 28 Texas Administrative Code §134.203(b)(1) "For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."
- Per 28 Texas Administrative Code §134.203(d) "The MAR for Healthcare Common Procedure Coding System (HCPCS) Level II codes A, E, J, K, and L shall be determined as follows: (1) 125 percent of the fee listed for the code in the Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) fee schedule; (2) if the code has no published Medicare rate, 125 percent of the published Texas Medicaid fee schedule, durable medical equipment (DME)/medical supplies, for HCPCS; or (3) if neither paragraph (1) nor (2) of this subsection apply, then as calculated according to subsection (f) of this section."
- Review of the Medicare 2009 DMEPOS fee schedule finds that HCPCS code A4221 has a fee of \$23.77; therefore, per 28 Texas Administrative Code §134.203(d), the MAR is $\$23.77 \times 125\% = \29.71 . According to the submitted EOB, the Division finds that the amount listed as payment on August 1, 2009 on the Table of Disputed Services was for HCPCS code J0696; therefore, the respondent paid \$0.00 for HCPCS code A4221. As a result, payment of \$29.71 is recommended.
- Review of the 2009 Texas Medicaid fee schedule finds that HCPCS code J0696 has a fee of \$1.20; therefore, per 28 Texas Administrative Code §134.203(d), the MAR is $\$1.20 \times 125\% = \1.50 . According to the submitted EOBs, the respondent paid \$77.14. As a result, additional reimbursement is not recommended for HCPCS code J0696.

4. On August 7, 2009, the requestor billed for HCPCS codes A4221 and J0696.

- HCPCS code A4221 is defined as "Supplies for maintenance of drug infusion catheter, per week (list drug separately)." According to the submitted medical bill, the requestor billed for 33 units of HCPCS code A4221.
- HCPCS code J0696 is defined as "Injection, ceftriaxone sodium, per 250 mg."
- Per the submitted EOBs, the respondent paid \$294.44 for HCPCS code A4221, and \$1.33 for code J0696 based upon "Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement."

Division Findings:

- As stated above, per 28 Texas Administrative Code §134.203(d), the MAR for HCPCS code A4221 is \$29.71. The requestor billed for 33 units; therefore, $\$29.71 \times 33 = \980.43 . The respondent paid \$294.44. The difference between the MAR and amount paid is \$685.99.
- As stated above, per 28 Texas Administrative Code §134.203(d), the MAR for HCPCS code J0696 is \$1.50. The respondent paid \$1.33. The difference between the amount paid and due is \$0.17.

- The MAR for HCPCS codes A4221 and J0696 is \$981.93. The total amount paid is \$463.41. The difference between the MAR and amount paid is \$518.52. The requestor is seeking additional reimbursement of \$136.51, this amount is recommended for additional reimbursement.
5. On October 8, 2009, the requestor billed for HCPCS codes A4221, A4223 and J3370.
- HCPCS code A4221 is defined as “Supplies for maintenance of drug infusion catheter, per week (list drug separately).”
 - HCPCS code A4223 is defined as “Infusion supplies not used with external infusion pump, per cassette or bag (list drugs separately).” According to the submitted medical bill, the requestor billed for seven (7) units of code A4223.
 - HCPCS code J3370 is defined as “Injection, vancomycin HCl, 500 mg.” According to the submitted medical bill, the requestor billed for 40 units of code J3370.
 - According to the Table of Disputed Services, the respondent paid \$233.41 for services rendered on October 8, 2009.

Division Findings:

- Neither party to the dispute submitted an explanation of benefits for the disputed date.
- As stated above, per 28 Texas Administrative Code §134.203(d), the MAR for HCPCS code A4221 is \$29.71. The requestor did not indicate the amount of reimbursement they were seeking for code A4221 on the Table of Disputed Services.
- Review of the 2009 Texas Medicaid fee schedule finds that HCPCS code J3370 has a fee of \$3.08; therefore, per 28 Texas Administrative Code §134.203(d), the MAR is $\$3.08 \times 125\% = \3.85 . The requestor billed for 40 units; therefore, $\$3.85 \times 40 = \154.00 . The requestor did not indicate the amount of reimbursement they were seeking for code J3370 on the Table of Disputed Services.
- A review of the Medicare 2009 DMEPOS and Texas Medicaid fee schedule finds that HCPCS code A4223 does not have a relative value or fee schedule. 28 Texas Administrative Code §134.203 (f) states “For products and services for which no relative value unit or payment has been assigned by Medicare, Texas Medicaid as set forth in §134.203(d) or §134.204(f) of this title, or the Division, reimbursement shall be provided in accordance with §134.1 of this title (relating to Medical Reimbursement).”
- 28 Texas Administrative Code §134.1, requires that in the absence of an applicable fee guideline or a negotiated contract, reimbursement for health care not provided through a workers’ compensation health care network shall be made in accordance with subsection 134.1(f), which states that “Fair and reasonable reimbursement shall: (1) be consistent with the criteria of Labor Code §413.011; (2) ensure that similar procedures provided in similar circumstances receive similar reimbursement; and (3) be based on nationally recognized published studies, published Division medical dispute decisions, and/or values assigned for services involving similar work and resource commitments, if available.”
- Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
- Former 28 Texas Administrative Code §133.307(c)(2)(G), requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable.” Review of the submitted documentation finds that:
 - The requestor has not articulated a methodology under which fair and reasonable reimbursement should be calculated.

- The requestor did not indicate the amount of reimbursement they were seeking for code A4223 on the Table of Disputed Services. The requestor listed the disputed amount in dispute as the total sum for codes A4221, A4223 and J3370 as \$336.35.
- The requestor did not submit nationally recognized published studies or documentation of values assigned for services involving similar work and resource commitments to support the requested reimbursement.
- The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.
- The request for additional reimbursement for HCPCS code A4223 is not supported. Thorough review of the submitted documentation finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the service in dispute. Additional payment cannot be recommended.

6. On October 15, 2009, the requestor billed for HCPCS codes A4221, A4223 and J1956.

- HCPCS code A4221 is defined as “Supplies for maintenance of drug infusion catheter, per week (list drug separately).” According to the submitted medical bill, the requestor billed for seven (7) units of code A4221.
- HCPCS code A4223 is defined as “Infusion supplies not used with external infusion pump, per cassette or bag (list drugs separately).” According to the submitted medical bill, the requestor billed for seven (7) units of code A4223.
- HCPCS code J1956 is defined as “Injection, levofloxacin, 250 mg.” According to the submitted medical bill, the requestor billed for seven (7) units of code J1956.
- According to the Table of Disputed Services, the respondent paid \$283.68 for services rendered on October 15, 2009.

Division Findings:

- Neither party to the dispute submitted an explanation of benefits for the disputed date.
- As stated above, per 28 Texas Administrative Code §134.203(d), the MAR for HCPCS code A4221 is \$29.71. The requestor billed for seven units; therefore, $\$29.71 \times 7 = \207.97 . The requestor did not indicate the amount of reimbursement they were seeking for code A4221 on the Table of Disputed Services.
- Review of the 2009 Texas Medicaid fee schedule finds that HCPCS code J1956 has a fee of \$5.97; therefore, per 28 Texas Administrative Code §134.203(d), the MAR is $\$5.97 \times 125\% = \7.46 . The requestor billed for 7 units; therefore, $\$7.46 \times 7 = \52.22 . The requestor did not indicate the amount of reimbursement they were seeking for code J1956 on the Table of Disputed Services.
- A review of the Medicare 2009 DMEPOS and Texas Medicaid fee schedule finds that HCPCS code A4223 does not have a relative value or fee schedule; therefore, it is subject to fair and reasonable reimbursement.
- Former 28 Texas Administrative Code §133.307(c)(2)(G), requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable.” The requestor did not indicate the amount of reimbursement they were seeking for code A4223 on the Table of Disputed Services. The requestor listed the disputed amount in dispute as the total sum for codes A4221, A4223 and J1956 as \$237.40. Review of the submitted documentation finds that the requestor does not demonstrate or justify that the amount sought for HCPCS code A4223 would be a fair and reasonable rate of reimbursement. Additional payment cannot be recommended.

7. On October 22, 2009, the requestor billed for HCPCS codes J1642, J3370, J3490, A4221, and A4223.

- HCPCS code J1642 is defined as “Injection, heparin sodium, (heparin lock flush), per 10 units.” According to the submitted medical bill the requestor billed for 25 units.
- HCPCS code J3370 is defined as “Injection, vancomycin HCl, 500 mg.” According to the submitted medical bill the requestor billed for 3 units.
- HCPCS code J3490 is defined as “Unclassified drugs.” According to the submitted medical bill the requestor billed for 45 units.
- HCPCS code J7030 is defined as “Infusion, normal saline solution, 1,000 cc.” According to the submitted medical bill the requestor billed for 15 units.
- HCPCS code A4221 is defined as “Supplies for maintenance of drug infusion catheter, per week (list drug separately).” According to the submitted medical bill, the requestor billed for seven (7) units of code A4221.
- HCPCS code A4223 is defined as “Infusion supplies not used with external infusion pump, per cassette or bag (list drugs separately).” According to the submitted medical bill, the requestor billed for 8 units of code A4223.

Division Findings:

- Neither party to the dispute submitted an explanation of benefits for the disputed date.
- The requestor did not list the disputed services on the Table of Disputed Services that were in dispute for this date. The requestor noted “SEE CLAIM FORM.” Therefore, the Table of Disputed Services was not completed in the form and manner required by 28 Texas Administrative Code §133.307(c)(2)(C).
- The requestor noted on the Table of Disputed Services, the amount billed was \$5512.47; total amount paid \$725.76; and amount in dispute as \$94.71.
- The requestor did not indicate the amount of reimbursement they were seeking for each code on the Table of Disputed Services. The requestor listed the disputed amount in dispute as the total sum for the services rendered on this date.
- Review of the 2009 Texas Medicaid fee schedule finds that HCPCS code J1642 has a fee of \$0.09; therefore, per 28 Texas Administrative Code §134.203(d), the MAR is $\$0.09 \times 125\% = \0.11 . The requestor billed for 25 units; therefore, $\$0.11 \times 25 = \2.75 . The requestor did not indicate the amount of reimbursement they were seeking for code J1642 on the Table of Disputed Services.
- Review of the 2009 Texas Medicaid fee schedule finds that HCPCS code J3370 has a fee of \$3.08; therefore, per 28 Texas Administrative Code §134.203(d), the MAR is $\$3.08 \times 125\% = \3.85 . The requestor billed for 3 units; therefore, $\$3.85 \times 3 = \11.55 . The requestor did not indicate the amount of reimbursement they were seeking for code J3370 on the Table of Disputed Services.
- Review of the 2009 Texas Medicaid fee schedule finds that HCPCS code J3490 has a fee of \$5.01; therefore, per 28 Texas Administrative Code §134.203(d), the MAR is $\$5.01 \times 125\% = \6.26 . The requestor billed for 45 units; therefore, $\$6.26 \times 45 = \281.70 . The requestor did not indicate the amount of reimbursement they were seeking for code J1642 on the Table of Disputed Services.
- As stated above, per 28 Texas Administrative Code §134.203(d), the MAR for HCPCS code A4221 is \$29.71. The requestor did not indicate the amount of reimbursement they were seeking for code A4221 on the Table of Disputed Services.
- A review of the Medicare 2009 DMEPOS and Texas Medicaid fee schedule finds that HCPCS code A4223 and J7030 do not have a relative value or fee schedule; therefore, they are subject to fair and reasonable reimbursement.
- Former 28 Texas Administrative Code §133.307(c)(2)(G), requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical

Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable.” The requestor did not indicate the amount of reimbursement they were seeking for codes A4223 and J7030 on the Table of Disputed Services. Review of the submitted documentation finds that the requestor does not demonstrate or justify that the amount sought for HCPCS codes A4223 and J7030 would be a fair and reasonable rate of reimbursement. Additional payment cannot be recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$166.22.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$166.22 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	04/04/2014
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.